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Reply to: Oakland Office

February 4, 2019

**VIA ELECTRONIC FILING**

Honorable Esther Salas, U.S.D.J.  
United States District Court, District of New Jersey  
MLK Jr. Federal Bldg. & U.S. Courthouse  
50 Walnut Street, Room 5076  
Newark, New Jersey 07102

**Re: Jacqueline Rosa/DOT v. Borough of Leonia, et al.**  
**Civil Action No. 2:18-cv-15534-ES-MAH**

Dear Judge Salas:

As you are aware, this office represents the Defendants, Borough of Leonia, Borough of Leonia Council, Judah Zeigler, and Tom Rowe in the above-captioned matter. We are writing to object to the Letter dated January 30, 2019 from the Attorney General's Office on behalf of the State of New Jersey Department of Transportation.

First, objection is made on the basis that the DOT's submission was filed without the Court's permission in contravention of Local Rule 7.1(d)(6). Second, there is no significance in bringing the Notice of Appeal to the District Court's attention as the mere filing of an appeal from the DOT Commissioner's Final Agency Decision does not require the District Court to abstain from exercising original jurisdiction over the constitutional claims raised in this matter. This is because the Commissioner's final agency decision with respect to the Ordinances submitted for approval by Leonia pursuant to N.J.S.A. 39:4-8(a) is not the type of state civil enforcement proceeding to which the Younger doctrine applies. See ACRA Turf Club v. Zanzuccki, 748 F.3d 127, 138-41 (3d Cir. 2014), citing Sprint Communications, Inc. v. Jacobs, 571 U.S. 69, 77 (2013).

If anything, the filing of the Appeal provides a basis for a summary denial of the DOT's Motion to Remand as the Superior Court of New Jersey no longer has jurisdiction to decide the state law issues raised in both the DOT's Complaint and in the Commissioner's final agency decision that is on appeal. See New Jersey Court Rule 2:2-3(a)(2); and Kiernan v. Kiernan, 355 N.J. Super. 89, 94 (App. Div. 2002) (holding that pursuant to Court Rule 2:9-1(a) issues on appeal are within the exclusive control of the Appellate Division).

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Thank you in advance for Your Honor's courtesies with respect to this matter.

Respectfully submitted,

/s Ruby Kumar-Thompson  
RUBY KUMAR-THOMPSON

RKT:mag

cc: Jacqueline Rosa, Esq. (via ECF only)  
Phillip J. Espinoza, Esq. (via ECF only)  
Donald A. Klein, Esq. (via ECF only)